IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 507/2006
(Lukman Khan Vs. State of Rajasthan)

Date of Order : 31/10/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. G.R.Punia for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.
Mr. Ravindra Acharya for the complainant.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner, who claims to be a juvenile, has challenged the order dated 23.1.2006 passed by Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Merta (for short 'the trial court' hereinafter) whereby the application filed by the petitioner under Section 49 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short 'the Juvenile Justice Act' hereinafter) was dismissed.

I have heard learned counsel for the parties.

Learned counsel for the petitioner has relied on decisions of this Court in Mallaram Vs. State of Rajasthan 2006 (5) RDD 2541 (Raj.) and in Jawari Lal Bhati Vs. State of Rajasthan 2006 (3) RDD 1371 (Raj.) and a decision of Hon'ble Supreme Court in Vishnu Alias Undrya Vs. State of Maharashtra (2006) 1 SCC 283.

Section 53 of the Juvenile Justice Act provides that the High Court may, at any time, either of its own motion or on an application received in this behalf, call for the record of any proceeding in which any competent authority or Court of Session has passed an order for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it thinks fit: provided that the High Court shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

From a plain reading of Section 53 of the Juvenile Justice Act, it is clear that the order impugned is revisable under Section 53 of the Juvenile Justice Act and as such a revision is maintenance against the impugned order. The petitioner without having availed the remedy of revision has filed the petition under Section 482 Cr.P.C. invoking inherent jurisdiction of this Court.

The petition is therefore, not maintenance in view of the fact that the petitioner has an alternative remedy of revision.

In this view of the matter, the criminal misc. petition is dismissed as not maintenance. The record of the trial court be returned forthwith.

(H.R.PANWAR),J.

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